IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2609 OF 2007

Vijay Govind Kamble and others .. Applicants
v/s.
State of Maharashtra
(At the instance of Sr.P.I. Malwani Police Station,
Mumbai.) .. Respondent

Mr.Niranjan Mundargi for the applicants.
Mr. S.S. Pednekar, APP for the State.
Mr. D.G. Bagwe for the complainant.

CORAM : V.C. DAGA, J.
DATED : 14TH AUGUST, 2007

P.C.

Heard learned counsel for the applicants, the learned APP and Mr. D.G. Bagwe, learned counsel for the internevor without there being any motion in that behalf..

2. During the course of the hearing, I was taken through the FIR which shows that offence under sections 323,354,452,504, 506 read with 34 of the IPC was registered against the present applicants in C.R. No. 202 of 2007. It is not in dispute that out of the aforesaid five sections, only section 452 is non-bailable. Having seen the FIR which was registered on 23rd July, 2007, prima facie; on the date of registration of offence under section 452 Cr.P.C., there was no material to show any preparation for causing hurt to any person or for assaulting any person

or for wrongfully restraining any person. Material, if any, appears to have been collected after registration of FIR. Under these circumstances, prima facie, the question would be whether section 451 would be applicable or section 452 as registered by the investigating officer. Section 451 of IPC is bailable offence whereas section 452 is non-bailable. The learned APP concedes that section 452 could not have been invoked on the date when the offence was registered.

3. In the aforesaid circumstances, prima facie, I am of the view that the applicant would be entitled for anticipatory bail, however, subject to certain stringent conditions:-

(a) In the event of arrest of the the applicants in connection with C.R. No. 202 of 2007, registered with Malwani Police Station, Mumbai, they shall be enlarged on bail in the sum of Rs.25,000/- each with one or two sureties to make up the said amount.

(b) The applicants shall report to Malwani Police Station twice a week i.e. on Monday between 12.00 noon to 02.30 p.m. and on Saturday between 03.00 p.m. to 05.00 p.m.

(c) The applicants shall not directly or indirectly make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(d) This order of anticipatory bail shall operate till the filing of the chargesheet. After filing of chargesheet, it would be

open for the applicant to apply for regular bail before regular court.

(e) It is needless to mention that breach of any of the conditions by the applicants shall result in cancellation of bail.

In the result, application is allowed.

(V.C. DAGA, J.)